

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

D. C. Form No. 106A Rev.

TITLE OF CASE	ATTORNEYS
ICEE OF OKLAHOMA, INC., and EASTERN OKLAHOMA ICEE, INC. vs. GIT-N-GO COMPANY; GIT-N-GO, INC.; QUIK-TRIP CORPORATION; NOLAN DISTRIBUTING, INC.; FAIRMONT FOOD COMPANY, d/b/a U-TOTE-M; IN-N-OUT STORES, INC.; and R.L. Schneider, and JET-STORES, INC. Additional Defts: WEST SIDE GIT-N-GO, SOUTH SIDE GIT-N-GO, NORTH SIDE GIT-N-GO, & EAST SIDE GIT-N-GO, and HALE-HALSELL COMPANY	For plaintiff: H. Corky Bishop Bishop & Elder ^{sute 308 Center off. Bldg} 3223 East 31st Street ^{680 W. 7th} (582-6139) Tulsa, Oklahoma 74105 (744-1443) 74127 John Oliver Oliver & Oliver 1725 N. St. Mary's Street San Antonio, Texas 78212 James R. Warncke Almo National Building San Antonio, Texas 78205 For defendant: Stephanie K. Seymour Sam P. Daniel, Jr. (Quik-Trip Corp) 1200 Atlas Life Bldg. Tulsa, Oklahoma 74103 (585-5541) James L. Kincaid (Git-N-Go Company and 711 1st Natl. Bldg. Git-N-Go, Inc.) Tulsa, Okla. 74103 (585-5711) James C. Lang (Nolan Dist.) 411 Thurston Natl. Bldg. Tulsa, Okla. 74103 (583-3145) Rogers, Bell & Robinson A. Wayne Breeland (In-N-Out Stores) P.O. Box 3209 Tulsa, Okla. 74101 (582-5201) Raymond Kelly, Hall, Estill, Hardwick, Gable, & Collingsworth (for Fairmont Foods Co.) 805 N.B.T. Bldg., Tulsa, Okla (585-9161)

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 5 mailed 4-1-72	Clerk	3/1 3-2-72	J. Warncke C.D. No. 39	15.00	15 00
J.S. 6 mailed 2-1-73	Marshal				
Basis of Action: violation of §4 Clayton Act (15 U.S.C. §15)	Docket fee Witness fees				
Action arose at:	Depositions				

DATE	PROCEEDINGS	Date Order or Judgment Noted
3-1-72	Petition, filed. Summons issued. rm	
3-15-72	Return on service of summons filed. Served Quik-Trip Corp. through its agent for service, J. B. Bailey at Tulsa, Oklahoma on 3-3-72. (\$3.00) Served Git-N-Go Co. through its agent for service, Joseph W. Cleary; Git-N-Go, Inc. through its agent for service, Joseph W. Cleary; Fairmont Food Company, through its agent for service, John W. Sublett; In-N-Out Stores, Inc. through its agent for service, R. L. Schneider; and R. L. Schneider, all on 3-6-72, at Tulsa, Oklahoma. Served Nolan Distributing, Inc. through its agent, The Corporation Company, on 3-7-72, at Tulsa, Oklahoma. (\$26.20) ds	
3-20-72	Application of the Deft., Quik-Trip Corp., for enlargement of time to answer or otherwise plead and brief in support thereof, filed. v	
3-22-72	Order allowing Deft., Quik-Trip extension of time to 4-10-72, to answer, filed. (FD-J)r (copies to attys)	
3-23-72	Suggestion of Death, (R.L. Schneider died), filed. v	
3-24-72	Application of defs. Git-N-Go Company & Git-N-Go, Inc. for ext. of time to ans., filed. rm	
3-24-72	Order granting above defs. 15 days to 4/10/72 to ans. (JHP by rm)	
3-24-72	Motion for enlargement of time of Nolan Distributing, Inc., filed. hm	
3-24-72	Order enlarging time for deft. Nolan Dist., Inc., to file pleadings until 4-10-72, filed. (JHP-Clerk)hm (copies mailed)	
3-24-72	Motion of the Deft. In-N-Out Stores, Inc., to Enlarge time to answer, filed with brief. v	
3-24-72	Order extending time for In-N-Out Stores, Inc., to answer to and including the 10th day of April, 1972, filed. (JHP-CC)(by-tv)	
3-27-72	Answer of the Deft., Fairmont Foods Co., filed. v	
4-10-72	Motion of def. In-N-Out to dismiss, filed. rm	
4-10-72	Brief in support of motion to dismiss, filed. rm	
4-10-72	Motion of the Deft., Nolan Distributing, Inc., to Dismiss, filed. v	
4-10-72	Brief in Support of Motion to Dismiss of Nolan Distr., Inc., filed. v	
4-10-72	Motion of defs. Git-N-Go Company and Git-N-Go, Inc., to dismiss, filed. rm	
4-10-72	Brief in support of motion to dismiss, filed. rm	
4-10-72	Motion of def. Quik-Trip Corporation to dismiss, filed. rm	
4-10-72	Brief of def. Quik-Trip in support of mo. to dismiss, filed. rm	
4-14-72	Pltfs' Amended Complaint, filed. r	
4-24-72	Summons issued, on Jet Stores, Inc. by serving Verrell Schneider. r	
4-24-72	Motion to Dismiss by Deft Nolan Distributing Co., Inc., filed w/attached Brief in support of Motion to Dismiss. filed. r	
4-24-72	Motion to Dismiss Amended Complaint by deft. IN-N-OUT STORES, INC., filed. r	
4-24-72	Brief in support of Mot to Dismiss Amended Complaint of In-N-Out, filed. r	
4-24-72	Motion to Dismiss Amended Complaint by deft. QUIK-TRIP Corp, filed. r	
4-24-72	Brief in support of Deft Quik-Trip Corp's Motion to Dism. Amended Complaint, filed.	
4-25-72	Appl for enlargement of time within which to plead or answer to Amended Complaint, filed by FAIRMONT FOODS, filed. r	
4-25-72	Motion of the Deft.s, Git-N-Go and Git-N-Go Company, to Dismiss, filed. v	
4-25-72	Brief in Support, filed. v	
4-27-72	Supplemental Cert. of Mailing by deft. In-N-Out Stores, inc., filed. r	
4-28-72	U.S. Marshals Service, Return on Summons, filed. Served Jet Stores, Inc., by serving Verrell Schneider, in Tulsa, Okla., on 4-26-72, with fees of \$5.76. v	
5-1-72	MINUTE ORDER: Pltfs granted until 5-15-72 to Respond to Defts' Motions to Dismiss Amended Complaint. (FD-J)r Filed.	
5-1-72	Order that deft. FAIRMONT FOODS CO is granted an enlarg. of 15 days from 4-26-72 or until 5-12-72 to plead or answer the Amended Comp. of Pltfs. (FD-J)r (Copies mailed to all attys) Filed.	

DATE	PROCEEDINGS	Date Order or Judgment Noted
5-1-72	Amended Motion to Dismiss of Deft. NOLAN DISTRIBUTING INC., filed. r	
5-1-72	Amended Brief in support of Mot. to Dism. of NOLAN DIST. INC., filed. r	
5-12-72	MINUTE ORDER: Pltf granted until 5-25-72 to Respond to Defts' Motions to Dismiss Amended Complaint (FD-J)r (attys notified by letter)	
5-15-72	Motion to Dismiss Amended Complaint of Deft. FAIRMONT FOODS COMPANY, w/ Brief in support, filed. r	
5-16-72	Motion of def. Jet Stores, Inc. to dismiss amended complaint, filed. rm	mailed
5-16-72	Brief in support of Mo. to dismiss amended complaint, filed. rm	mailed
5-17-72	Copy of letter dated 5-16-72 from J. D. to Bishop, stating that Pltf respond to Motion to dismiss amended complaint of FAIRMONT FOODS, w/supporting brief within 15 days (5-31), filed. r	
5-24-72	Pltfs' Replies to Motions to Dismiss, filed.	
5-24-72	Pltfs' Brief in support of Pltfs' Reply to Motions to Dismiss, filed. r	
5-26-72	Copy of letter dated 5-25-72 from J. D. to Bishop and Oliver (Pltfs) stating it is desired that Pltfs respond to Motion to Dismiss amend. complaint of JET STORES, within 15 days (6-9) Filed. r	
6-5-72	Reply brief of defs. Git-N-Go Co. and Git-N-Go, Inc. to rebuttal of pltfs. to defs.' mos/dismiss, filed. rm	
6-12-72	Plaintiff's reply brief to defendants' Git-N-GO Co. and Git-N-Go, Inc. Reply Brief on motion to dismiss, filed. ds	
6-21-72	Order filed. The Mots to Dismiss of defts GIT-N-GO COMPANY, GIT-N-GO, INC., QUIK-TRIP CORPORATION, FAIRMONT FOOD CO. d/b/a U-TOTE-M and IN-N-OUT STORES, INC. are denied. The Mot to Dismiss of deft NOLAN DIST. is denied except with respect to the claimed failure of Pltfs to join indispensable parties and Plaintiff is directed to respond to said claim of deft. Nolan Distrib. Inc., within 15 days (7-6-72) w/Brief, Filed. (FD-J)r (copies mailed)	
7-3-72	Answer of defs. Git-N-Go Company and Git-N-Go, Inc. to amended complaint, filed. rm	
7-3-72	Pltf's Brief in reply to Deft's Nolan Dist. Inc., claim of Pltfs' Failure to Join indispensable parties under Rule 19, filed. r	
7-3-72	Answer of Deft. QUIK-TRIP CORP, filed. r	
7-3-72	Answer of Deft. IN-N-OUT STORES, INC., filed. r	
7-3-72	Answer of the Deft. Fairmont Foods Co., to Amended Complaint, filed. v	
7-5-72	Amendment of answer of defendant Quik-Trip Corporation, filed. ds	
7-12-72	Order filed, overruling the Motion of Deft. NOLAN DISTRIBUTING, INC. as related to failure to join "indispensable parties", which was expected from the Court's Order of 6-21-72, filed. (FD-J)r (copies mailed to attys)	
7-13-72	Answer of deft. Jet Stores, Inc., filed. hm	
7-21-72	Answer of Deft., Nolan Distributing, Inc., filed. v	
7-25-72	Order filed, overruling the Motion to Dismiss Amended Complaint of Deft JET STORES, INC., filed. (FD-J)r (copies mailed)	
8-4-72	Pltf's Motion and Stip to dismiss without prejudice as to Deft., JET STORES, INC., only, filed. r	
8-4-72	Brief in support of Motion to Dismiss JET STORES, INC., filed. r	
8-8-72	Order filed, that Stip & Mot. of Pltf & deft JET STORES, INC., the case is hereby dismissed w/o prejudice as to deft <u>JET STORES</u> , filed and entered. (FD-J)r (Copies mailed to attys)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
8-11-72	Plaintiffs' notice of intention to take oral depositions, filed.	
8-11-72	Subpoenas issued. ds	
8-22-72	Return on subpoena filed. Served A. C. Ashley and Ben M. Walters, Jr. at Tulsa, Oklahoma on 8-16-72. (\$10.96) ds	
	Return on subpoena filed. Served Earl Mead at Tulsa, Oklahoma on 8-17-72. (\$3.92) ds	
	Return on subpoena filed. Served Thomas C. Nolan at Tulsa, Okla on 8-18-72. (\$4.16) ds	
	Return on subpoena filed. Served David Sexton, Sr. at Muskogee, Okla on 8-21-72. (\$3.00) ds	
	Return on subpoena filed. Served Chester Cadieux at Tulsa, Okla, on 8-21-72. (\$3.20.) ds	
8-25-72	Case set for pre-trial 9-19-72 at 10:30 a.m. (FD-J)hm	
9-7-72	Motion of the Pltf.s, for leave to file second amended complaint, filed.v <i>Mailed</i> -order to Judge. <i>w/ 2nd Amended Complaint</i>	
9-7-72	Brief in support of motion for leave to file second amended complaint, filed. v	
9-8-72	Notice to take deposition	
9-11-72	Notice to take deposition of the Pltf.s, by their managing officer, BILL GUENTHER, on 9-18-72, in Tulsa, Okla. , by the Deft. Fairmont Foods Co., d/b/a U-Tote-M, filed. v	
9-11-72	Order filed, granting Leave to file 2nd Amended Complaint, filed. (FD-J)r (Copies mailed)	
9-11-72	Second Amended Complaint filed. Summons issued to West Side Git-N-Go, South Side Git-N-Go., North Side Git-N-Go, & East Side Git-N-Go. and Hale-Halsell Company. r	
9-11-72	Pltf's Interrogatories to the Defts GIT-N-GO CO. & GIT-N-GO, Inc., filed. r	
9-12-72	MINUTE ORDER: It is Ordered by the Court that this case is stricken from the Pre-Trial setting of 9-19-72, by order of Judge Daugherty. (FD-J)r (parties notified by letter)	
9-13-72	Plaintiffs' Interrogatories to defendant, Fairmont Food Company, dba/ U-Tote-M, filed. ds	
9-13-72	Plaintiff's interrogatories to defendant, Quik-Trip Corp. filed. ds	
9-13-72	Plaintiff's interrogatories to defendant, In-N-Out Stores Inc. filed. ds	
9-13-72	Plaintiff's interrogatories to defendant, Nolan Distributing, Inc. filed. ds	
9-20-72	Answer of defendant, quik-Trip Corporation, filed. ds	

(Continued)

DATE	PROCEEDINGS	Date Order or Judgment Noted
9-21-72	Answer of Defts Git-N-Go Co, Git-N-Go, Inc., West Side Git-N-Go, Inc. Southside Git-N-Go, Inc., Northside Git-N-Go, Inc., and Hale-Halsell Co., filed ds	
9-21-72	ANSWER of Fairmond Foods Co. to second amended complaint, filed. ds	
9-21-72	ANSWER of NOLAN DISTRIBUTING INC. to 2nd Amended Complaint, filed. r	
9-22-72	ANSWER OF In-N-OUT STORES, INC to 2nd Amended Complaint, filed. r	
9-22-72	ANSWER of East Side Git-N-Go, Inc., to 2nd amended petition, filed. ds	
9-26-72	Pltfs' Supplemental Interrog. to the defts Git-N-Go Co, Git-N-Go, Inc., Eastside Git-N-Go, Inc. Westside Git-N-Go, Inc., Southside Git-N-Go, Inc., Northside Git-N-Go, Inc., & Hale-Halsell Co., filed. ds	
9-28-72	Summons ret. & filed: served West Side Git-N-Go, Inc., East side Git-N-Go, Inc., Northside Git-N-Go, Inc., & Southside Git-N-Go, Inc., on 9-20-72; served Hale-Halsell Co. on 9-21-72 (USM \$34.24) g	
10-10-72	Answers to Pltfs' Interrog. to the defts Git-N-Go Co, and Git-N-Go, Inc., and to Pltfs' Supplemental Interrog. to the defts, Git-N-Go Co, Git-N-Go Inc., Southside Git-N-Go, Inc., Northside Git-N-Go, Inc., Eastside Git-N-Go, Westside Git-N-Go, Inc. & Hale-Halsell Co., filed. v	
10-12-72	Answer of Nolan Dist. to Pltf's Interrog., filed. rm	
10-13-72	Answers to Pltg's Interrog. by the deft In-N-Out Stores, Inc., filed. rm	
10-17-72	Deposition of Earl Mead, taken on behalf of pltf on 10-13-72, filed. rm	
11-2-72	Case set for P-T hearing on Thurs. 11-30-72 at 2:00 P.M. (FD-J)r	
11-30-72	Pre-Trial held. Pltf rep by H. Corky Bishop; Deft rep by A. Wayne Breeland. Case stricken pending settlement on all defts, other than In-N-Out Stores. Case set on JURY LIST, to be tried sometime in Feb. (FD-J)r	
12-7-72	Mot & Stip to Dismiss w/o Prejudice as to defts, Git-NpGo Co., Git-N-Go Inc., Northside Git-N-Go, Inc., Southside Git-N-Go, Inc., Westside Git-N-Go, Inc., Eastside Git-N-Go, Inc., & Hale-Halsell Co., filed. r	
12-11-72	Order filed and Entered, that this action is dismissed w/o prejudice as to defts Git-N-Go Co., Git-N-Go, Inc., Northside Git-N-Go, Inc., Southside Git-N-Go, Inc., West Side Git-N-Go, Inc., Eastside Git-N-Go, Inc., and Hale-Halsell Co., filed and entered. (FD-J)r (Copies mailed)	
12-29-72	Plaintiff's motion for common trial or consolidation, filed. ds <i>marked</i>	
12-29-72	Plaintiff's brief in support of motion for common trial or consolidation, filed. ds <i>Discontinued</i>	
1-3-73	Copy of letter of 1-2-73 to deft In-N-Out Stores, Inc., stating that In-N-Out Stores, Inc. respond to Motion to consolid. within 10 days (1-13-73). If opposed, Response shall be accompanied by a brief, filed. r (OVER)	

DATE	PROCEEDINGS	Date Order or Judgment Noted
1-12-73	Motion and Stipulation to Dismiss without prejudice as to the Deft., NOLAN DISTRIBUTING, INC., filed. v -order to Judge.	
1-15-73	Order dismissing without prejudice as to deft NOLAN DIST. INC., filed and entered. (FD-J)r (Copies mailed)	
1-22-73	Stipulation of Dismissal as to All Defendants, filed and entered. v	mailed
1-23-73	Motion & Stip. to Dismiss w/o prejudice as to deft QUIK-TRIP CORP, filed. r <i>Mailed w/ copies</i>	
1-25-73	Order, filed and entered, that this case is dismissed with prejudice as to all parties deft., (FD-J)r (Copies mailed)	
1-29-73	Order filed and entered, that action is dismissed w/o prejudice as to Deft QUIK-TRIP Corp, (FD-J)r (Copies mailed)	
8-3-73	Deposition of David Sexton, Sr., taken before Wm. J. Moore, Notary Public, Bexar Co., TX, with fees of \$44.90. v	